

MINUTES  
CITY PLAN COMMISSION

City Plan Commission, Tuesday, February 26, 2013, at 4:00pm in the third floor conference room at City Hall, 828 Center Ave, Sheboygan WI. Chairperson Mayor Terry Van Akkeren presided.

Present: Mayor Terry Van Akkeren, Todd Wolf, John Van Der Male, Ald. Julie Kath, and Jerry Jones

Excused: Don Cvetan and Ryan Sazama

Staff present: Steve Sokolowski, Chad Pelishek, Dave Biebel, Attorney Steven McLean, and Janet M Duellman

Others: Alex Novak (Novation Group Consulting), Attorney Claude Krawczyk (SBA Communications), Jerry Vogel (Wigwam), Attorney Michael Bauer (Unison), Terry Scholten (Scholten Pattern Works), Douglas Larson (Orion Builds), Erik Jensen (LJM Architects), and Scott Stangel (Sheboygan A's)

The meeting was called to order and the Pledge of Allegiance was recited.

Approval of minutes of the February 12, 2013 meeting.

Todd Wolf moved to approve the minutes of the February 12, 2013 meeting, Julie Kath seconded.

The motion passed unanimously.

Conditional Use application by the Sheboygan A's to install a new scoreboard with an electronic message center at the Wildwood Baseball Complex located at 2328 New Jersey Avenue.

Scott Stangel and Dave Biebel were present to discuss item.

Mr. Stangel explained how the old scoreboard will be removed and replaced with the proposed new scoreboard. The new scoreboard is an improvement to the park, uses less electricity, and has a longer life. After the scoreboard is installed, the Sheboygan A's will be working on installing new baseball field lights.

Mr. Biebel stated that the Department of Public Works (DPW) has a good working relationship with the Sheboygan A's and DPW supports the new scoreboard.

The committee questioned if the scoreboard was going to be on 24/7, all year long. Mr. Stangel informed the committee that the scoreboard will feature a full color LED

message center which will be used during games. The message center will primarily be used to enhance the fan experience by offering team and player information, fan interaction, and advertising. When games are not being played, the message center will only offer information regarding upcoming Sheboygan A's games and events. The electronic message center will be used during the season only.

The scoreboard will have internally lit advertising signs on the scoreboard that will be lit all year long.

Ald. Julie Kath moved, Todd Wolf seconded to approve the conditional use with the following conditions:

1. Applicant shall obtain the necessary permits to install the scoreboard/sign.
2. All new lighting shall be installed per Section 15.707 of the City of Sheboygan Zoning Ordinance. There shall be no spillover light onto adjacent properties or the streets.
3. Applicant shall meet Sections 15.804(a) and (c) of the City of Sheboygan Zoning Ordinance relating to signage and pedestrian/traffic safety and sign timing/cycles. No signs containing flashing, intermittent or moving sections or intermittent or flashing lights shall be permitted.
4. The electronic message center shall be for the Sheboygan A's and Sheboygan A's events only (no off-premise business advertising is permitted on the electronic message center).
5. If there are any amendments to the approved site/sign plan, the applicant will be required to submit a new conditional use application reflecting those amendments.

The motion passed unanimously.

Conditional Use Permit and variance by Almir Hadzidedic to locate two (2) apartments on the 2<sup>nd</sup> floor of the Flooring Studio commercial facility located at 1526 Indiana Avenue.

Erik Jensen was present to discuss this item.

Mr. Jensen explained that the Flooring Studio operates from the 1<sup>st</sup> floor retail space and that there is vacant second floor space. The plan is to convert the unused 2<sup>nd</sup> floor space into two (2) apartments. Each apartment will contain 1-bedroom, 1-bath and a kitchen/dining/living room. Mr. Jensen also explained there would be improvements to the existing building, parking lot, sidewalks, installation of landscaping.

Staff stated the west wall of the flooring studio warehouse has several large window areas, approximately 10 x 10, that have been covered with plywood.

Mr. Jensen explained that the owner will be doing some exterior remodeling to the front of the building and to the 2<sup>nd</sup> floor apartments. They will review the west wall when submitting plans to the Architectural Review Board.

Todd Wolf moved, Julie Kath seconded to approve with the following conditions:

1. The applicant shall obtain all necessary permits/licenses including but not limited to building, plumbing, electrical, HVAC, fire, occupancy, etc.
2. Submittal and approval of a proposed storm drainage plan.
3. All ground level and rooftop mechanicals shall be screened and/or enclosed and constructed of like materials and colors of the facility (HVAC equipment, satellite dishes, etc.).
4. If a dumpster is used, a dumpster(s) shall be screened/enclosed and constructed of like materials and colors of the facility. If using chain link fencing, the applicant shall install Privacy Decorative Slating (PDS) material in order to effectively screen and enclose the dumpsters.
5. All new lighting shall be installed per Section 15.707 of the City of Sheboygan Zoning Ordinance. There shall be no spillover light onto adjacent properties or the streets.
6. All areas used for parking or maneuvering of vehicles shall be paved by Friday, June 1, 2013.
7. All areas that are not required to be paved shall be landscaped with grass and/or approved landscaping and installed by June 1, 2013.
8. Applicant is proposing a zero (0) foot paving setback to the rear property line. Applicant shall not cross a property line. Absolutely no portion of the new parking lot, landscaping or any other improvements shall cross property lines.
9. Applicant will be required to obtain a sign permit for each sign to be installed on the property prior to installation.
10. If there is any exterior remodeling/renovating, the applicant will be required to submit architectural plans to the City of Sheboygan Architectural Review Board. The applicant will also appropriately address the west wall of the warehouse that has several large window spaces that have been covered in plywood.
11. If there are any amendments to the approved use/floor plan, the applicant will be required to submit a new conditional use application reflecting those amendments.

The following variances were granted:

1. Variance to have eight (8) parking spaces – Minimum number of parking spaces required for a retail business and two (2) commercial apartments are 13 spaces.
2. Variance to have a zero (0) foot paving setback – Minimum rear yard paving setback is 5 feet.
3. Variance to have a 2% landscape ratio – minimum landscape ratio is 10%.

The motion passed unanimously.

Conditional Use Permit application by Novation Group Consulting, on behalf of SBA Communications, to construct a 180-foot high communication tower at 3402 Crocker Avenue (Wigwam property).

Alex Novak, Attorney Claude Krawczyk, Jerry Vogel, Attorney Michael Bauer, Terry Scholten, and Douglas Larson were present to discuss this item.

Attorney Krawczyk, representing SBA, stated that conditional application is in compliance with the City's zoning ordinance; that no variance are required for this

proposal; that the existing tower on the Scholten site at 3321 Payne Avenue is not in compliance with the zoning ordinance; that the existing tower is 180 lattice and new will be 180 foot monopole; the new monopole structure will be located on the Wigwam property and is a replacement for the Scholten site tower; the existing tower will be dismantled and the compound returned to its original condition within 60 days of completion of the new tower; SBA has submitted the conditional use permit proposal because Unison/property owner terminated the SBA lease; SBA is requesting that the Plan Commission approve the conditional use permit as submitted because SBA believes the tower proposal is in compliance with the zoning ordinance.

Alex Novak stated carriers are in full support of the move.

Jerry Vogel, president of Wigwam, stated that the NE area of the Wigwam property is a good location for the tower and will not impact any potential future use of the property.

Attorney Bauer, representing Unison, stated Unison and Mr. Scholten objected to the proposed conditional use permit and handed out materials to the Plan Commission indicating why the proposal is inconsistent with the City's zoning ordinance. Mr. Bauer discussed Unison's and Mr. Scholten's objection letters; indicated there was a major issue between the parties regarding the existing lease; discussed the existing conditional use permit from 1997 that allowed the tower to be constructed on the Scholten property and provided a recorded copy of the deed; Indicated that if SBA is permitted to construct a new tower on the Wigwam property, Unison is going to replace the tower on the Scholten property and they do not believe they need any formal permits to do so because of the original conditional use permit; discussed the assignment of lease agreement between Unison and Scholten and explained how each have a significant financial investment in the existing facility because Scholten and Unison have a profit sharing agreement regarding the lease; discussed his concerns with the proposed tower and how it relates to the Sheboygan Zoning Ordinance; spoke of concerns with the clear land setback and its location to the Wigwam facility and parking lot; spoke about the service plan that needs to be submitted with the application and that the applicant has not submitted this service plan.

Doug Larson, of Orion Builds, explained how towers collapse and federal approvals that are required to install a new tower; spoke of his safety concerns with the proposed tower based on its location to the Wigwam facility and parking lot which could cause property damage and has safety concerns; indicated that SBA has not applied for any sort of federal approvals such as FAA or FCC approvals.

Terry Scholten stated that he would like to keep the existing tower on his property and would like to work with SBA on a new lease. Mr. Scholten believes the existing lease is not a fair market value.

Mayor Van Akkeren explained to the commission and to all those participating in this hearings process that they need to focus on the SBA/Wigwam new tower conditional

use permit application before them and all lease issues and negotiations need to be worked out between the two parties.

Attorney McLean stated the he believes the setback issue meets the zoning ordinance requirements is not an issue.

The committee discussed right-of-first refusal, lease termination by property owner, existing contract.

Attorney Bauer stated that the application should be tabled because he believes it does not meet all zoning requirements.

Attorney Krawczyk addressed the statements made by Attorney Bauer by stating the conditional use permit running with the land is contradicting to Wisconsin Law; stated towers are designed to withstand many different types of severe weather and do not collapse; they are willing to construct either a monopole or lattice tower; they submitted a monopole design because the city suggested it; they are more than willing to submit a service plan even though it will be the same service plan as presently provided by the existing tower on the Scholten property.

Mr. Sokolowski reminded the commission that we need to focus on the conditional use permit application for a new tower on the Wigwam property that is before the commission.

The committee discussed the negotiation and how the two parties should come to agreement because they didn't want to be a negotiation tool.

Mr. Sokolowski explained to the board that the existing property owner (Scholten) had terminated the lease (letter included in their packets) and the existing lease issues on the Scholten property should not be considered with this application. The commission needs to focus on the proposal before them today which is to construct a new tower on the Wigwam site and to remove the existing tower on the Scholten site. If the tower on the Scholten property is removed, Scholten and/or Unisom would need to submit a new conditional use permit to construct a new tower on that site and the Plan Commission would review that conditional use permit at that time. Does the proposal before you meet the zoning requirements and what action should be taken on the Wigwam tower proposal before you today.

Julie Kath moved, Todd Wolf seconded to approve with the following conditions:

1. The applicant shall obtain all necessary permits/licenses from all required agencies to construct the communications tower, associated mechanical equipment, fencing, paving, etc. as proposed.
2. Submittal and approval of a proposed drainage plan.
3. Submittal and approval of a proposed landscape plan.

4. If the property owner proposes to expand or provide new paved parking and/or access drives, the applicant/property owner will be required to pave the parking and/or access drives that lead to the tower.
5. The wireless communication tower and equipment shall be properly maintained.
6. No lighting shall be permitted on a tower except as required by the FAA.
7. Towers shall have a non-reflective surface and a neutral color that is the same or similar color as the supporting structure to be as visually unobtrusive as possible, or, if required by the FAA, be painted pursuant to the FAA's requirements.
8. If the wireless telecommunications tower has been discontinued for a period of six consecutive months or longer it is hereby declared "abandoned." If there are two or more users of this wireless telecommunications tower, then this abandonment is not effective until all users cease using this wireless telecommunications tower.
9. Abandoned facilities, as defined in condition 8 above, shall be removed by the property owner within ninety (90) days from date of abandonment. If the wireless telecommunications tower is not removed within said ninety (90) days, the City may remove the wireless telecommunications tower at the property owner's expense.
10. Any future installations and/or providers wishing to collocate on this wireless telecommunications tower shall be required to obtain a conditional use permit prior to installation and operation.
11. Applicant shall remove existing tower located at 3321 Payne Avenue 60 days after the new tower has been constructed at 3402 Crocker Avenue.
12. The applicant/carrier shall submit a detailed plan showing the service areas and locations for each antenna and/or tower for said applicant's/carriers ultimate system. The height, style and the capability of each tower to carry additional co-locates shall be specified in the plan.

The motion passed 3 -2 vote. Ayes: Kath, Wolf, and Van Akkeren Nays: Jones and Van Der Male

Being no further business, John Van Der Male moved, Jerry Jones seconded to adjourn the meeting at 5:07 pm. Motion carried.

Janet M Duellman  
Recording Secretary